

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

ELIEZER CRUZ APONTE, *et al.*
Plaintiffs

V.

**CARIBBEAN PETROLEUM
CORPORATION, *et al.***
Defendants

CIVIL NO.: 09-2092 (FAB)

And consolidated cases:

09-2095, 09-2096, 09-2118,
09-2148, 09-2215, 10-1030,
10-1207, 10-1337, 10-2030,
10-2035, 10-2036

**This pleading pertains to 10-1207 and
10-1337.**

**JOINT MOTION FOR VOLUNTARY DISMISSAL WITH PREJUDICE
PURSUANT TO F.R.C.P. 41(a)(2)**

TO THE HONORABLE COURT:

NOW COME, through undersigned counsel, come the remaining parties¹ who have asserted claims, cross claims, third party claims, or claims by tender under Federal Rule of Civil Procedure 14(c) against The Navigators Group, Inc. and Navigators Insurance Company (as identified below), and The Navigators Group, Inc. and Navigators Insurance Company (collectively “Navigators”), and move for dismissal of all

¹ Through Dkt. 1299 (unless otherwise noted, all Dkt. numbers provided herein refer to the consolidated lead case record in 09-2092), all claims against The Navigators Group, Inc. and Navigators Insurance Company (collectively “Navigators”) in all following listed member cases were dismissed with prejudice by the Plaintiffs in **09-2092** (Claim asserted in Dkt. 81, Judgment at Dkt. 1299), **09-2095** (Claim asserted in Dkt. 529-1, Judgment at Dkt. 21 in member case), **09-2096** (Claim asserted in Dkt. 530-1, Judgment at Dkt. 19 in member case), **09-2118** (Claim asserted in Dkt. 917, Judgment at Dkt. 22 in member case), **09-2215** (Claim asserted in Dkt. 531-1, Judgment at Dkt. 19 in member case), **10-1030** (Claim asserted in Dkt. 532-1, Judgment at Dkt. 23 in member case), **10-2030** (Claim asserted in Dkt. 1 in member case, Judgment at Dkt. 21 in member case), **10-2036** (Claim asserted in Dkt. 1 in member case, Judgment at Dkt. 38 in member case), **10-1337** (Claims asserted in Dkt. 391, 397, and 915 against Plaintiffs and Petitioners in the Limitation of Liability case, (10-1337) Cape Bruny Tankschiffarhts GmbH and Co. KG and Cape Bruny Shipping Company Ltd., as owners, managing owners, owners pro hac vice, and/or operators of the M/T CAPE BRUNY, her engines, gear, tackle, appurtenances, etc. (collectively “Cape Bruny Defendants”), and Navigators was tendered to claimants in Dkt. 910, Judgment at Dkt. 1299). Through Dkt. 1310, all claims of RLI Insurance Company in 09-2092 all claims against Navigators were dismissed (Claim asserted in Dkt.828).

claims asserted by the remaining parties against Navigators in the above-captioned actions, as set forth in detail below, with prejudice pursuant to the Federal Rule of Civil Procedure 41(a)(2), and with each party to bear its own respective costs and attorney fees.

- a) Miguel A. Marquez-Delgado, *et al.*, in member case 10-1207 (Claim against Navigators asserted in Dkt. 355) and in member case 10-1337 (Claim against Cape Bruny Defendants asserted in Dkt. 375, with Navigators tendered to Miguel A. Marquez-Delgado, *et al.* in Dkt. 910).
- b) Plaintiffs and Petitioners in the Limitation of Liability case, Cape Bruny Tankschiffarhts GmbH and Co. KG and Cape Bruny Shipping Company Ltd., as owners, managing owners, owners pro hac vice, and/or operators of the M/T CAPE BRUNY, her engines, gear, tackle, appurtenances, etc. (collectively “Cape Bruny Defendants”) in member case 10-1337 (Third Party Claim against Navigators asserted in Dkt. 910).
- ~~e) Total Petroleum Puerto Rico Corp. in member case 10-1337 (Cross Claim asserted against Navigators in Dkt. 913) and in member case 10-1337 (Claim against Cape Bruny Defendants asserted in Dkt. 383, with Navigators tendered to Total Petroleum Puerto Rico Corp. in Dkt. 910).~~
- d) 492 families and individual claimants in member case 10-1337 (Claim against Cape Bruny Defendants asserted in Dkt. 381, with Navigators tendered to 492 families and individual claimants in Dkt. 910).
- e) Harbor Bunkering Corp. in member case 10-1337 (Cross Claim asserted against Navigators in Dkt. 978) and in member case 10-1337 (Claim against Cape Bruny Defendants asserted in Dkt. 382 with Navigators tendered to Harbor Bunkering Corp. in Dkt. 910).
- f) Municipio de Toa Baja and others in member case 10-1337 (Claim against Cape Bruny Defendants asserted in Dkt. 381, with Navigators tendered to Municipio de Toa Baja and others in Dkt. 910).
- ~~g) BP Products North America, Inc. in member case 10-1337 (Cross Claim asserted against Navigators in Dkt. 979) and in member case 10-1337 (Claim against Cape Bruny Defendants asserted in Dkt. 389, with Navigators tendered to BP Products North America, Inc. in Dkt. 910).~~
- h) Commonwealth of Puerto Rico in member case 10-1337 (Claim against Cape Bruny Defendants asserted in Dkt. 395, with Navigators tendered to the Commonwealth of Puerto Rico in Dkt. 910).

- i) Astra Oil Company LLC, AOT Limited, and Astra Oil Trading, NV in member case 10-1337 (Claim against Cape Bruny Defendants asserted in Dkt. 690, with Navigators tendered to Astra Oil Company LLC, AOT Limited and Astra Oil Trading, NV in Dkt. 910).
- j) Shell Trading (U.S.) Company in member case 10-1337 (Claim against Cape Bruny Defendants asserted in Dkt. 906, with Navigators tendered to Shell Trading (U.S.) Company in Dkt. 910).
- k) Intertek USA, Inc. in member case 10-1337 (Claim against Cape Bruny Defendants asserted in Dkt. 908, with Navigators tendered to Intertek USA, Inc. in Dkt. 910).
- ~~l) Antares Oil Services, LLC in member case 10-1337 (Claim against Cape Bruny Defendants asserted in Dkt. 919, with Navigators tendered to Antares Oil Services, LLC in Dkt. 910).~~

WHEREFORE, Navigators and the aforementioned parties request entry of judgment in favor of Navigators dismissing with prejudice all claims by the aforementioned parties, with each party to bear its own respective costs and attorney's fees.

At San Juan, Puerto Rico, this 20th of August, 2015.

Respectfully submitted,

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I HEREBY CERTIFY that on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record.

s/Francisco J. Colón-Pagán